

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

DAVID OLIVER,)
)
 Petitioner,) vs.) 1:11-CV-988-TWP-DKL
)
 KEITH BUTTS, Superintendent,)
)
 Respondent.)

Entry Discussing Petition for Writ of Habeas Corpus

This cause is before the court on the petition for a writ of habeas corpus of David Oliver. Oliver's request to proceed *in forma pauperis* is **granted**.

Federal courts are authorized to dismiss summarily any habeas petition that appears legally insufficient on its face.¹ *McFarland v. Scott*, 512 U.S. 849, 856 (1994). This authority is conferred by Rule 4 of the *Rules Governing Section 2254 Cases in United States District Courts*. This is an appropriate case for such a disposition.

A federal court may issue a writ of habeas corpus pursuant to 28 U.S.C. § 2254(a) only if it finds the applicant is in custody in violation of the Constitution or laws or treaties of the United States.² *Id.* Oliver is confined at an Indiana prison. He seeks relief from a disciplinary proceeding identified as No. ISR 11-06-0058, wherein he was sanctioned with a period of time in disciplinary segregation. This sanction was non-custodial. *Mamone v. United States*, 559 F.3d 1209 (11th Cir. 2009); *Virsnieks v. Smith*, 521 F.3d 707, 713 (7th Cir. 2008). A sanction which does not constitute custody³ cannot be challenged in an action for habeas corpus relief. *Cochran v. Buss*, 381 F.3d 637, 639 (7th Cir. 2004); *Montgomery v. Anderson*, 262 F.3d 641, 644-45 (7th Cir. 2001). Because Oliver's habeas petition shows on its face that he is not entitled to the

relief he seeks, the action is **summarily dismissed** pursuant to *Rule 4*.

Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 08/05/2011



Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

Distribution:

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